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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIONAPPEAL

APPEAL FROM ORDER NO.707 OF 2006

Hamir Jaysinh Mulani Appellant
versus
Rekha Vipin Khakhar Respondent

WITH
CIVIL APPLICATION NO.391 OF 2007
IN
APPEAL FROM ORDER NO.707 OF 2006

Rekha Vipin Khakhar Applicant
versus
Hamir Jaysinh Mulani Respondent

Mr.v.M.Acharya i/by Mayur Narendra & Co. fr appellant and respondent in CA..

Mr.R.D.Dave i/by M/s.N.N.Vaishnawa & Co. for respondent and applicant in CA.

CORAM : A.S.OKA, J.

DATE : 17th April 2007

PC :

1. Heard advocates for the parties. The appellant-original defendant has taken an exception to the judgement and order dated 24th August 2006 passed by the Trial Court by which a Notice of Motion taken out by the respondent-plaintiff has been made absolute.

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2. The respondent in the appeal has filed Civil Application No.391 of 2007. In the said application it is stated that the respondent has no objection if the judgement and order which is impugned in the appeal from order is set aside. It is prayed in the application that as the respondent in the appeal is a senior citizen, hearing of the suit may be expedited. Learned advocate for the appellant submits to the order of the Court.

3. In view of the averments made in the Civil Application, the appeal and the application is disposed of by passing the following order.

(a) The impugned judgement and order dated 24th August 2006 is quashed and set aside;

(b) Notice of Motion No.2208 of 2006 in Suit No.2514 of 2006 stands dismissed;

(c) The learned Trial Judge is directed to dispose of the suit as expeditiously as possible and preferably within a period of one year from the date of which the writ of this order is received by the Trial Court;

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(d) Appeal is allowed in above terms with no orders as costs;

(e) All contentions of the parties in the pending suit are expressly kept open;

(f) Civil Application No.391 of 2007 does not survive and stands disposed of as such.

(A.S.OKA, J.)